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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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NATHANIEL WHALEY,

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Plaintiff,

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v.

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NATIONAL ASSOCIATION OF
REALTORS®; LAS VEGAS REALTORS®;
NEVADA REALTORS; SIERRA NEVADA
REALTORS; INCLINE VILLAGE
REALTORS®; ELKO COUNTY REALTORS;
MESQUITE REAL ESTATE ASSOCIATION;
GREATER LAS VEGAS MLS; NORTHERN
NEVADA REGIONAL MLS; JASON
MITCHELL GROUP; OPENDOOR
BROKERAGE LLC; eXp REALTY;
BERKSHIRE HATHAWAY
HOMESERVICES NEVADA PROPERTIES;
SIMPLY VEGAS; URBAN NEST REALTY;
LUXURY HOMES OF LAS VEGAS;
HUNTINGTON AND ELLIS, KELLER
WILLIAMS SOUTHERN NEVADA; KELLER
WILLIAMS VIP; KELLER WILLIAMS
REALTY LAS VEGAS; KELLER WILLIAMS
REALTY THE MARKETPLACE; ENGELS &

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¹ This paper is styled as a stipulated motion pursuant to LR 7-2 rather than a stipulation for the sole reason that certain Defendants are not signatories to this motion. The undersigned are unaware of any objection to the relief requested in this Joint Motion from any non-signatory Defendant.

1 VOLKERS LAKE TAHOE; DOUGLAS
2 ELLIMAN OF NEVADA; REDFIN
3 HOMESERVICES LLC; REDFIN
4 CORPORATION; DOES I through X; and ROE
CORPORATIONS I through X, inclusive;

5 Defendants.
6

7 AND CONSOLIDATED CASE
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Case No. 2:24-cv-00340-ART-MDC

9 ANGELA BOYKIN, individually and on behalf
of all others similarly situated,
10 Plaintiff,

v.

11 NATIONAL ASSOCIATION OF
REALTORS®; UMRO REALTY CORP. d/b/a
12 The Agency; CHASE INTERNATIONAL,
INC.; DICKSON REALTY, INC.; COMPASS,
13 INC.; eXp WORLD HOLDINGS, INC.; THE
REAL ESTATE GUY INC.; BHH
14 AFFILIATES, LLC; DOUGLAS ELLIMAN
INC.; DOUGLAS ELLIMAN REALTY, LLC;
HOMESMART INTERNATIONAL LLC;
CRAIG TANN, LTD d/b/a HUNTINGTON &
15 ELLIS A REAL ESTATE AGENCY; REALTY
ONE GROUP; REALTY ONE GROUP
EMINENCE; REDFIN CORPORATION;
URBAN NEST REALTY, LLC; NEVADA
16 REALTORS; GREATER LAS VEGAS
ASSOCIATION OF REALTORS; GREATER
17 LAS VEGAS ASSOCIATION OF REALTORS
MULTIPLE LISTING SERVICE, INC.; ELKO
COUNTY REALTORS; INCLINE VILLAGE
18 REALTORS, INC.; SIERRA NEVADA
REALTORS; NORTHERN NEVADA
REGIONAL MULTIPLE LISTING SERVICE,
19 INC.; MESQUITE REAL ESTATE
ASSOCIATION, INC., A NEVADA NON-
PROFIT CORPORATION;

20 Defendants.
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1 Plaintiff Nathaniel Whaley and Plaintiff Angela Boykin, on behalf of themselves
 2 and all others similarly situated (individually, the “Whaley Plaintiffs” and the “Boykin
 3 Plaintiffs” collectively, “Plaintiffs”), and the undersigned Defendants, (together with
 4 Plaintiffs, the “Stipulating Parties”),² jointly move to: (1) stay the proceedings in this case
 5 for 60 days from the date of this Court’s Order; and (2) further stay proceedings as to the
 6 REALTOR® Defendants³; Compass, Inc.; Douglas Elliman Inc., Douglas Elliman Realty,
 7 LLC, and Douglas Elliman of Nevada (collectively “Douglas Elliman”); BHH Affiliates,
 8 LLC; Berkshire Hathaway HomeServices Nevada Properties; Realty ONE Group; and
 9 Realty ONE Group Eminence, through a determination on final approval of their respective
 10 settlement agreements (collectively, the settlements are referred to herein as, “the
 11 Nationwide Settlements”). In support of this joint stipulated motion, the Stipulating Parties
 12 provide as follows:

13 1. The Whaley Plaintiffs filed a Class Action Complaint (ECF No. 1) on
 14 January 15, 2024.

15 2. The Whaley Plaintiffs filed a First Amended Class Action Complaint (the
 16 “Amended Complaint”) (ECF No. 6) on January 25, 2024.

17 3. The Boykin Plaintiffs filed a Class Action Complaint in the consolidated
 18 action on February 16, 2024.

19 4. On March 8, 2024, in the *Whaley* action Defendant National Association of
 20 REALTORS® filed a Joint Stipulated Motion (“*Whaley Motion*”) to Stay Proceedings
 21 Pending Determination of the Motion to Transfer (“MDL Motion”) by the Judicial Panel on
 22 Multidistrict Litigation (the “JPML”) (ECF No. 28).

23
 24 ² Defendants Compass, Inc., Greater Las Vegas Association of REALTORS®, Greater Las
 25 Vegas Association of REALTORS® Multiple Listing Service, consent to the stay requested
 herein but have not yet retained local counsel and thus cannot sign this motion.

26 ³ The “REALTOR® Defendants” are referred to herein as Defendants: National Association
 27 of REALTORS®; Greater Las Vegas Association of REALTORS; Nevada REALTORS®;
 28 Elko County REALTORS®; Incline Village REALTORS®; Mesquite Real Estate
 Association, Inc.; Greater Las Vegas Association of REALTORS®; and Sierra Nevada
 REALTORS®.

1 5. This Court granted the *Whaley* Motion on March 11, 2024, “stay[ing] the
 2 entire case until the later of (i) 30 days after the [JPML] rules on the pending MDL Motion,
 3 or (ii) 30 days after the date of service or waiver of service of the Amended Complaint on
 4 such Defendant” (ECF No. 31).

5 6. Pursuant to the Court’s Order (ECF No. 56) issued in *Boykin* on March 21,
 6 2024, the *Boykin* action was administratively closed and consolidated with the *Whaley*
 7 action.

8 7. On March 15, 2024, the plaintiffs in *Burnett v. The National Association of*
 9 *Realtors*, No. 4:19-cv-00332 (W.D. Mo.) (“*Burnett*”), *Moehrl v. The National Association*
 10 *of Realtors*, No. 1:19-cv-01610 (N.D. Ill.) (“*Moehrl*”), *Gibson v. National Association of*
 11 *Realtors* (“*Gibson*”), No. 4:23-cv-00788 (W.D. Mo.), and *Umpa v. National Association of*
 12 *Realtors* (“*Umpa*”), No. 4:23-cv-00945 (W.D. Mo.) entered into a settlement agreement
 13 (“NAR Settlement Agreement”), attached hereto as Exhibit A, with Defendant National
 14 Association of REALTORS® (“NAR”), which, if approved, would constitute a nationwide
 15 settlement against the “Released Parties,” as defined in the NAR Settlement Agreement (Ex.
 16 A ¶¶ 17-18).

17 8. On March 21, 2024, Defendant Compass, Inc., entered into a settlement
 18 agreement with the plaintiffs in *Gibson* and *Umpa*, which would constitute a nationwide
 19 settlement that may include similar claims at issue in this case. (*Gibson*, ECF No. 135).

20 9. On March 22, 2024, Defendant HomeSmart International LLC filed a Joint
 21 Consent Motion to Stay Proceedings Pending Determination of Motion to Transfer (the
 22 “MDL Motion”) by the Judicial Panel on Multidistrict Litigation (the JPML) as to the
 23 *Boykin* Defendants (the “*Boykin* Motion”) (ECF No. 36).

24 10. On April 2, 2024, this Court granted the *Boykin* Motion, and further
 25 instructed that if the MDL Motion was denied, “the parties shall promptly negotiate and
 26 within 30 (thirty) days file a proposed schedule for this matter, including a schedule for
 27 amended pleadings and a deadline for the defendants to file a responsive pleading or
 28 otherwise respond to the operative Complaint.” (ECF No. 60).

1 11. On April 12, 2024, the JPML denied the MDL Motion (*see* ECF No. 62).

2 12. On April 19, 2024, the Motion for Preliminary Approval of the NAR
3 Settlement Agreement (“Preliminary Approval Motion”) as to NAR was filed in *Burnett*
4 (*see Burnett*, ECF No. 1458).

5 13. On April 22, 2024, the *Burnett* court granted the Preliminary Approval
6 Motion (*Burnett*, ECF No. 1460).

7 14. On April 23, 2024, Defendant Realty ONE Group entered into a settlement
8 agreement with the plaintiffs in *Gibson* and *Umpa*, which, if approved, would constitute a
9 nationwide settlement that may include similar claims at issue in this case.

10 15. On April 25, 2024, Defendants HomeServices of America, BHH Affiliates
11 LLC, and HSF Affiliates LLC (collectively “the HomeServices Defendants”) executed a
12 binding term sheet to settle all claims asserted against the HomeServices Defendants. Under
13 the terms of this settlement, a Released Party includes the HomeServices Defendants, its
14 officers, directors, employees, as well as direct or indirect subsidiaries among others. If
15 approved, this would constitute a nationwide settlement that may include similar claims to
16 those at issue in this case.

17 16. On April 29, 2024, the Motion for Preliminary Approval of the Realty ONE
18 Group Settlement Agreement was filed in *Gibson* and *Umpa*, which the Court granted on
19 April 30, 2024 (*see Gibson*, ECF No. 163).

20 17. On April 29, 2024, Defendant Douglas Elliman filed a Notice of Pending
21 Settlement in *Gibson* and *Umpa* advising the Court that Douglas Elliman had entered into a
22 settlement agreement with the plaintiffs in those actions, which would constitute a
23 nationwide settlement that may include similar claims at issue in this case. (*Gibson*, ECF
24 No. 157).

25 18. On April 30, 2024, the *Gibson*⁴ court granted the Motion for Preliminary
26 Approval related to Compass’ and Douglas Elliman’s respective settlements with the
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28 ⁴ On April 23, 2024, the Court in *Gibson* and *Umpa*, issued an order consolidating the *Umpa*
action into the *Gibson* action. (*Gibson*, ECF No. 145).

1 Gibson and Umpa plaintiffs. (*Gibson*, ECF No. 163). The court’s order enjoins all members
 2 of the nationwide settlement class from pursuing any claims against Compass, Douglas
 3 Elliman, and the “Released Parties” defined in each of their respective settlements based on
 4 the same factual predicates as the claims alleged in *Gibson*.

5 19. The NAR Settlement Agreement defines certain categories of entities,
 6 including, for example, NAR, REALTOR-Associate® Members, REALTOR® Member
 7 Boards, REALTOR® Multiple Listing Services, Non-REALTOR® Multiple Listing
 8 Services, and brokerages, and identifies what steps, if any, each category must take to
 9 qualify as a “Released Party” pursuant to the NAR Settlement Agreement. (Ex. A ¶ 18).

10 20. Certain entities must expressly enter into an “opt in” agreement, and comply
 11 with certain other terms, to qualify as “Released Parties.” (Ex. A ¶ 18).

12 21. The REALTOR® Defendants do not have to enter into an “opt in” agreement
 13 in order to be considered “Released Parties.” (Ex. A. ¶ 18(b)).

14 22. Certain other defendants in the above-captioned litigation must enter into an
 15 “opt in” agreement, within 60 days from the date the first Motion for Preliminary Approval
 16 is filed, and comply with certain other terms, in order to be considered “Released Parties.”
 17 (Ex. A ¶ 18(c-f)); *see also id.* ¶¶ 20, 66, 67).

18 23. Plaintiffs and NAR, speaking on behalf of the Defendants, met and conferred
 19 regarding the status of this case in light of the Nationwide Settlements and this Court’s
 20 directive to “negotiate and within 30 (thirty) days file a proposed schedule for this matter,
 21 including a schedule for amended pleadings and a deadline for the defendants to file a
 22 responsive pleading or otherwise respond to the operative Complaint,” because the pending
 23 MDL Motion was denied.” (ECF No. 60).

24 24. Plaintiffs and the Defendants have agreed that it is in the interest of judicial
 25 efficiency for this Court to modify the current deadlines set forth in its April 2, 2024, Order
 26 (ECF No. 60), and enter an Order to:

27 (1) Stay the case as to the REALTOR® Defendants through a decision on final
 28 approval of the NAR Settlement Agreement;

1 (2) Stay the case as to Defendant Compass, Inc. through a decision on final
2 approval of its settlement agreement;

3 (3) Stay the case as to Defendants Douglas Elliman Inc., Douglas Elliman
4 Realty, LLC, and Douglas Elliman of Nevada through a decision on final
5 approval of their settlement agreement;

6 (4) Stay the case as to Defendants Berkshire Hathaway HomeServices Nevada
7 Properties, and BHH Affiliates, LLC, through a decision on final approval
8 of the HomeServices Defendants' settlement agreement;

9 (5) Stay the case as to Defendants Realty ONE Group and Realty ONE Group
10 Eminence through a decision on final approval of the Realty ONE Group
11 settlement agreement;

12 (6) Stay the case from the date of the Court's order as to the remaining parties
13 for 60 days to allow other Defendants to determine whether they will "opt
14 in" and otherwise comply with the NAR Settlement Agreement, and
15 therefore also become "Released Parties," or to file their own motions to stay
16 based on their own settlement agreements. This stay does not prohibit
17 settlement discussions, negotiations, or mediations between Plaintiffs and
18 remaining Defendants, and/or the exchange of informal discovery to
19 facilitate settlement; and

20 (7) Order that no later than 14 days after the expiration of the 60-day stay,
21 Plaintiffs and the remaining Defendants (assuming such Defendants have
22 been properly served), including any additional "Released Parties," will file
23 a status report, including whether the above-captioned litigation should be
24 stayed as to any new Released Parties through final approval of the NAR
25 Settlement Agreement and/or propose a litigation and briefing schedule for
26 any responses to the Complaints and/or amended complaints for any
27 remaining Defendants in the above-captioned litigation who have not
28 become Released Parties.

25. Courts in other similar actions have already granted stays in light of the Nationwide Settlements, including in the following cases:

- *Freedlund v. Redfin Corporation*, No. 2:24-cv-01561 (C.D. Cal. Apr. 16, 2024), Order granting stay as to defendants NAR and California Association of REALTORS® through a decision on final approval, ECF No. 28;
- *Burton v. National Association of REALTORS*, No. 7:23-cv-05666 (D.S.C. Apr. 23, 2024), Order granting stay as to NAR through a decision on final approval, ECF No. 39; and
- *Fierro v. National Association of Realtors*, No. 2:24-cv-00449 (C.D. Cal. Apr. 30, 2024), Order granting stay of entire case for 60 days, and further staying case as to certain defendants through final approval of respective nationwide settlement agreements, as requested in this Stipulated Motion, ECF No. 148.
- *QJ Team, LLC v. Texas Assoc. of Realtors, Inc.*, No. 4:23-cv-01013 (E.D. Tex. May 1, 2024), Order granting stay as to NAR-Affiliated Defendants pending final approval of the NAR Settlement, ECF No. 205.

26. The Defendants do not waive any rights to arbitration or other forms of alternative dispute resolution, and expressly reserve and assert, and do not waive, their binding arbitration rights. Defendants reserve the right to file formal motions asserting these rights at each phase of litigation.⁵

27. Defendants do not waive any rights to enforce provisions of any applicable agreements including class waiver provisions and/or limitations periods, and expressly reserve and assert, and do not waive, their binding and enforceable rights. Defendants reserve the right to file formal motions asserting these rights at each phase of litigation.

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⁵ Defendants also do not waive and expressly reserve any rights as to any personal jurisdiction arguments.

28. Plaintiffs and the proposed class expressly reserve all rights available to them in this or any other proceeding.

IT IS SO ORDERED:

From Russell Brown

ANNE R. TRAUM
UNITED STATES DISTRICT JUDGE

DATED: May 13, 2024

Dated this 10th day of May, 2024.

Dated this 10th day of May, 2024.

BEN'S LAW

LEWIS ROCA ROTHGERBER
CHRISTIE LLP

By: /s/ Stefany "Miley" Tewell

Stefany "Miley" Tewell, Bar No. 6144
Ben Lehavi, Bar No. 14564
5940 South Rainbow Boulevard
Las Vegas, Nevada 89118
(702) 518-9236

By: /s/ *E. Leif Reid*

E. Leif Reid, Bar No. 5750
Kristen L. Martini, Bar No. 11272
3993 Howard Hughes Parkway
Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
One East Liberty Street, Suite 300

SCHWARTZ LAW, PLLC

/s/ Samuel A. Schwartz
Samuel A. Schwartz, Esq.
601 East Bridger Avenue
Las Vegas, NV 89101
702.802.2207 tel
SASchwartz@nvfirm.com

One East Liberty Street,
Reno, Nevada 89501
(775) 823-2900

*Attorneys for the Whaley Plaintiff and
the Class*

MCDONALD CARANO LLP

ALBRIGHT, STODDARD, WARNICK &
ALBRIGHT

By: /s/ G. Mark Albright

G. Mark Albright, Bar No. 1394
Daniel R. Ormsby, Bar No. 14595
801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106
(702) 384-7111

*Attorneys for Defendants Sierra
Nevada REALTORS® and Northern
Nevada Regional Multiple Listing
Service, Inc.*

1 Matthew B. George (*pro hac vice*)
2 Blair E. Reed (*pro hac vice*)
3 KAPLAN FOX & KILSHEIMER LLP
4 1999 Harrison Street, Suite 1560
5 Oakland, California 94612
6 (415) 772-4700

7 Frederic S. Fox (*pro hac vice*)
8 Matthew P. McCahill (*pro hac vice*)
9 Jeffrey P. Campisi (*pro hac vice*)
10 KAPLAN FOX & KILSHEIMER LLP
11 800 Third Avenue, 38th Floor
12 New York, New York 10022
13 (212) 687-1980

14 Brandon Fox (*pro hac vice*)
15 KAPLAN FOX & KILSHEIMER LLP
16 1750 North Bayshore Drive
17 Miami, Florida 33132
18 (914) 924-1038

19 Julie Pettit (*pro hac vice*)
20 David B. Urteago (*pro hac vice*)
21 THE PETTIT LAW FIRM
22 2101 Cedar Springs, Suite 1540
23 Dallas, Texas 75201
24 (214) 329-0151

25 Michael K. Hurst (*pro hac vice*)
26 Jessica Cox (*pro hac vice*)
27 Yaman Desai (*pro hac vice*)
28 LYNN PINKER HURST &
29 SCHWEGMANN, LLP
30 2100 Ross Avenue, Suite 2700
31 Dallas, Texas 75201
32 (214) 981-3839

33 *Attorneys for the Boykin Plaintiff and the*
34 *Proposed Classes*

GUILD, GALLAGHER & FULLER,
LTD.

By: /s/ John K. Gallagher

John K. Gallagher, Bar No. 956
Patrick H. Gallagher, Bar No. 14875
100 West Liberty Street, Suite 800
Reno, Nevada 89501
(775) 786-2366

*Attorneys for Defendant Incline
Village REALTORS®, Inc.*

HUTCHISON & STEFFEN, PLLC

By: /s/ Mark A. Hutchison

Mark A. Hutchison, Bar No. 4639
Piers R. Tueller, Bar No. 14633
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
(702) 385-2500

*Attorneys for Defendant Nevada
REALTORS®*

MCDONALD CARANO LLP

By: /s/ Pat Lundvall

Pat Lundvall, Bar No. 3761
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
(702) 873-4100

Robert D. McGill (*pro hac vice*)
Matthew T. Ciulla (*pro hac vice*)
Elizabeth L. Merritt (*pro hac vice*)
MACGILL PC
156 E. Market Street, Suite 1200
Indianapolis, Indiana 46204
(317) 721-1253

*Attorneys for Defendants Berkshire
Hathaway HomeServices
Nevada Properties and BHH
Affiliates, LLC*

BREMER WHYTE BROWN & O'MEARA

By: /s/ Andrew J. Sharples

ANDREW J. SHARPLES, Esq., Bar
No. 12866

1 JEFFREY W. SAAB, Esq. Bar No.
2 11261
3 1160 N. TOWN CENTER DRIVE
4 SUITE 250
LAS VEGAS, NV 89144
(702) 258-6665

5 *Attorneys for Defendant Realty ONE
6 Group and Realty ONE Group
Eminence*

7 SHEPPARD, MULLIN, RICHTER &
8 HAMPTON LLP

9 By: /s/ Leo D. Caseria

10 LEO D. CASERIA (pro hac vice
forthcoming)
11 CHRISTOPHER LOVELAND (pro
hac vice forthcoming)
12 2099 Pennsylvania Avenue, NW,
Suite 100
13 Washington, DC 20006
(202) 747-1925
14 cleveland@sheppardmullin.com

15 HELEN C. ECKERT (*pro hac
vice* forthcoming)
16 Four Embarcadero Center, 17th Floor
17 San Francisco, California 94111-4109
(415) 434-9100

18 *Attorneys for Defendant Realty ONE
19 Group and Realty ONE Group
Eminence*

20 FREEMAN MATHIS & GARY, LLP

22 By: /s/ Michael M. Edwards

23 MICHAEL M. EDWARDS, ESQ.
Nevada Bar No. 6281
24 ERIC N. TRAN ESQ.
Nevada Bar No. 11876
25 770 East Warm Springs Road, Suite
360
Las Vegas, NV 89119
27 Tel.: 725.258.7360
Fax: 833.336.2131
28 Michael.Edwards@fmglaw.com

1 SCOTT ERIC ANDERSON, ESQ.*
2 JACOB S. MADSEN, ESQ.*
3 MATTHEW N. FOREE, ESQ.*
4 CAMERON N. REGNERY, ESQ.*
5 FREEMAN MATHIS & GARY, LLP
6 100 Galleria Parkway, Suite 1600
7 Atlanta, GA 30339
8 (T): 770-818-0000
9 (F): 833-330-3669
10 scott.anderson@fmglaw.com
11 jacob.madsen@fmglaw.com
12 mforee@fmglaw.com
13 cameron.regnery@fmglaw.com

14 *Admitted Pro Hac Vice
15 *Counsel for HomeSmart International,*
16 *LLC*

17 GARMAN TURNER GORDON LLP

18 By: /s/ Dylan T. Ciciliano

19 DYLAN T. CICILIANO
20 Nevada Bar No. 12348
21 7251 Amigo Street, Suite 210
22 Las Vegas, NV 89119
23 Tel: (725) 777-3000
24 Fax: (725) 777-3112

25 *Attorneys for Douglas Elliman Inc.,*
26 *Douglas Elliman Realty, LLC, and*
27 *Douglas Elliman of Nevada*

28 MCDONALD CARANO LLP

29 By: /s/ Adam Hosmer-Henner

30 ADAM HOSMER-HENNER, ESQ.
31 100 W. Liberty Street, 10th Floor
32 Reno, NV 89501
33 ahosmerhenner@mcdonaldcarano.com

34 *Attorney for Defendant Dickson*
35 *Realty, Inc.*

36 ARMSTRONG TEASDALE LLP

37 By: /s/ Brandon P. Johansson

38 BRANDON P. JOHANSSON
39 Nevada Bar No. 12003
40 7160 Rafael Rivera Way, Suite 320

1 Las Vegas, Nevada 89113
2 T: (702) 678-5070
3 F: (702) 878-9995
bjohansson@atllp.com

4 Michael A. Gehret
5 Nevada Bar No. 9307
6 222 South Main St., Suite 1830
7 Salt Lake City, UT, 84101
T: (801) 401-1607
F: (801) 880-2793
mgehret@atllp.com

8 *Attorneys for Defendants eXp World*
9 *Holdings, Inc. and eXp Realty, LLC*
10 FARELLA BRAUN & MARTEL LLP

11 By: /s/ Christopher Wheeler
12 Christopher Wheeler, Esq.
One Bush Street, Suite 900
San Francisco 94104
tkobelski@fbm.com
cwheeler@fbm.com

14 *Attorneys for Defendant*
15 *Chase International, Inc.*

16 MUNCK WILSON MANDALA, LLP

17 By: /s/Tiffany A. Kahler
18 TIFFANY A. KAHLER
Nevada Bar No. 13513
19 12770 Coit Road, Suite 600
Dallas, Texas 75251
Telephone: (972) 628-3600
Facsimile: (972) 628-3616

22 *Attorneys for Defendant*
UMRO Realty Corp. d/b/a The
23 Agency

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that I am an employee of Lewis Roca Rothgerber Christie LLP, and that on the 10th day of May, 2024, I caused the foregoing **JOINT STIPULATED MOTION AND [PROPOSED] ORDER TO STAY ENTIRE CASE FOR 60 DAYS AND TO FURTHER STAY PROCEEDINGS AS TO CERTAIN DEFENDANTS THROUGH FINAL APPROVAL OF NATIONWIDE SETTLEMENTS** to be served by electronic mail to the following:

Stefany "Miley" Tewell, Esq. Ben Lehavi, Esq. BEN'S LAW 5940 South Rainbow Boulevard Las Vegas, Nevada 89118 judgetefany@benslaw.com ben@benslaw.com <i>Attorneys for the Whaley Plaintiff and the Class</i>	Tiffany A. Kahler, Esq. MUNCK WILSON MANDALA 12770 Coit Road Dallas, Texas 75251 tkahler@munckwilsom.com <i>Attorneys for Defendant UMRO Realty Corp.</i>
G. Mark Albright, Esq. Daniel R. Ormsby, Esq. 801 South Rancho Drive, Suite D-4 Las Vegas, Nevada 89106 ormsby@albrightstoddard.com gma@albrightstoddard.com	Richard J. McGuffin, III, Esq. ALLING & JILLSON 276 Kingsbury Grade, Suite 2000 PO Box 3390 Lake Tahoe, Nevada 89449 rmcguffin@ajattorneys.com
Matthew B. George, Esq. Blair E. Reed, Esq. KAPLAN FOX & KILSHEIMER LLP 1999 Harrison Street, Suite 1560 Oakland, California 94612 mgeorge@kaplanfox.com breed@kaplanfox.com	Tim Horgan-Kobelski, Esq. Christopher Wheeler, Esq. FARELLA BRAUN & MARTEL LLP One Bush Street, Suite 900 San Francisco 94104 tkobelski@fbm.com cwheeler@fbm.com <i>Attorneys for Defendant Chase International, Inc.</i>
Frederic S. Fox, Esq. Matthew P. McCahill, Esq. Jeffrey P. Campisi, Esq. KAPLAN FOX & KILSHEIMER LLP 800 Third Avenue, 38th Floor New York, New York 10022 ffox@kaplanfox.com mmccahill@kaplanfox.com jcampisi@kaplanfox.com	Adam Hosmer-Henner, Esq. MCDONALD CARANO LLP 100 W. Liberty Street, 10 th Floor Reno, NV 89501 ahosmerhenner@mcdonaldcarano.com <i>Attorneys for Defendant Dickson Realty, Inc.</i>
Brandon Fox, Esq. KAPLAN FOX & KILSHEIMER LLP	Brandon P. Johansson ARMSTRONG TEASDALE LLP 7160 Rafael Rivera Way, Suite 320 Las Vegas, Nevada 89113 bjohansson@atllp.com
Michael Allen Gehret ARMSTRONG TEASDALE LLP	

<p>1 1750 North Bayshore Drive 2 Miami, Florida 33132 3 bfox@kaplanfox.com</p> <p>4 Julie Pettit, Esq. 5 David B. Urteago, Esq. 6 THE PETTIT LAW FIRM 7 2101 Cedar Springs, Suite 1540 8 Dallas, Texas 75201 9 jpettit@pettitfirm.com 10 durteago@pettitfirm.com</p> <p>11 Michael K. Hurst, Esq. 12 Jessica Cox, Esq. 13 Yaman Desai, Esq. 14 LYNN PINKER HURST & SCHWEGMANN, 15 LLP 16 2100 Ross Avenue, Suite 2700 17 Dallas, Texas 75201 18 mhurst@lynllp.com 19 jcox@lynllp.com 20 ydesai@lynllp.com 21 <i>Attorneys for the Boykin Plaintiff and the 22 Proposed Classes</i></p> <p>23 Matthew C. Addison, Esq. 24 MCDONALD CARANO LLP 25 100 W. Liberty St., 10th Floor 26 Reno, NV 89501 27 maddison@mcdonaldcarano.com 28 <i>Attorneys for Defendants Sierra Nevada REALTORS® and Northern Nevada Regional Multiple Listing Service, Inc.</i></p> <p>29 John K. Gallagher, Esq. 30 Patrick H. Gallagher, Esq. 31 GUILD, GALLAGHER & FULLER, LTD. 32 100 West Liberty Street, Suite 800 33 Reno, Nevada 89501 34 jgallagher@ggfltd.com 35 pgallagher@ggfltd.com 36 <i>Attorneys for Defendant Incline Village REALTORS®, Inc.</i></p> <p>37 Mark A. Hutchison, Esq. 38 Piers R. Tueller, Esq. 39 HUTCHISON & STEFFEN, PLLC 40 10080 West Alta Drive, Suite 200 41 Las Vegas, NV 89145 42 mhutchison@hutchlegal.com 43 ptueller@hutchlegal.com</p>	<p>222 South Main Street, Suite 1830 Salt Lake City, Utah 84101 ymurphy@atllp.com <i>Attorneys for Defendant eXp Realty LLC</i></p> <p>Michael M. Edwards, Esq. Eric N. Tran Esq. FREEMAN MATHIS & GARY, LLP 770 East Warm Springs Road, Suite 360 Las Vegas, NV 89119 michael.edwards@fmglaw.com eric.tran@fmglaw.com</p> <p>Cameron N. Regnery, Esq. Jacob S. Madsen, Esq. Matthew M. Foree, Esq. Scott E. Anderson, Esq. FREEMAN MATHIS & GARY, LLP 100 Galleria Parkway, Suite 1600 Atlanta, Georgia 30339 cameron.regnery@fmglaw.com jacob.madsen@fmglaw.com matthew.foree@fmglaw.com scott.anderson@fmglaw.com <i>Attorneys for Defendant HomeSmart International LLC</i></p> <p>Lucian Greco, Esq. Jeffrey W. Saab, Esq. Andrew Sharples, Esq. BREMER WHYTE BROWN & O'MEARA 1160 N. Town Center Drive, Suite 250 Las Vegas, NV 89144 lgreco@bremerwhyte.com jsaab@bremerwhyte.com asharples@bremerwhyte.com <i>Attorneys for Defendant Realty ONE Group, Inc.</i></p> <p>Patricia K. Lundvall, Esq. MCDONALD CARANO 2300 West Sahara Avenue, Suite 1200 Las Vegas, NV 89102 lundvall@mcdonaldcarano.com</p> <p>Robert D. McGill, Esq. Matthew T. Ciulla, Esq. Elizabeth L. Merritt, Esq. MACGILL PC</p>
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Attorneys for Defendant Nevada REALTORS® 156 E. Market Street, Suite 1200
Indianapolis, Indiana 46204
robert.macgill@macgilllaw.com
matthew.ciulla@macgilllaw.com
elizabeth.merritt@macgilllaw.com
Attorneys for Defendants Berkshire Hathaway HomeServices Nevada Properties and BHH Affiliates, LLC

/s/ Dawn M. Hayes
Employee of Lewis Roca Rothgerber Christie LLP

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